

¹ Plaintiffs voluntarily dismissed Count VI of the Complaint on December 28, 2015. See Doc. 19.

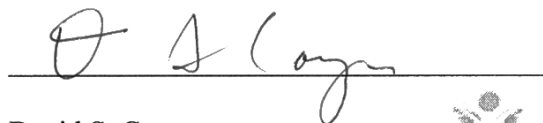
inquiries that would be better resolved at the summary judgment stage or, if necessary, at trial.”
Doc. 21 at 7 (citations omitted).

On August 24, 2016, Defendant filed its Objections to the M&R. Doc. 22. Plaintiffs did not object to the M&R but filed a “Motion for Leave to File Amended Complaint” Doc. 23. This Motion was granted in part and denied in part by the undersigned on September 27, 2016, Doc. 28, resulting in the filing of the First Amended Complaint, Doc. 30. The First Amended Complaint contains two claims under the Fiduciaries Act.

The current Motion to Dismiss merely re-asserts the arguments previously considered by the undersigned in the M&R issued on August 10, 2016, Doc. 21. For the reasons previously stated, the undersigned respectfully recommends that Defendant’s Motion to Dismiss Plaintiffs’ First Amended Complaint be denied.

SO RECOMMENDED.

Signed: December 14, 2016

A handwritten signature in cursive script, appearing to read "D. S. Cayer", is written over a horizontal line.

David S. Cayer
United States Magistrate Judge

